

REMARKS

Claims 52-65 remain pending in the application. Applicants have amended the claims to more clearly define the invention and request reconsideration of the rejection in light of the amendments.

I. Rejections Under 35 U.S.C. §112, second paragraph

Claims 52-65 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 52 has been amended to include the terms "encodes" and "promotes" in accordance with the suggestions made by the Examiner. The Examiner further questioned the type of binding between the claimed proteins and antibodies contemplated by the Applicants. For clarification purposes, Applicants have amended all the independent claims to specify that an antibody "selectively binds to" the claimed isolated protein (or epitope as in the case of Claim 63). Support for "selectively binds to" can be found in the specification, for example, on page 47, lines 10-15. The addition of "isolated" to the dependent claims is made merely for clarification purposes. Since the amendments do not add any new matter, Applicants respectfully request the withdrawal of the §112, second paragraph, rejections.

II. Obviousness-Type Double Patenting

The Examiner has provisionally rejected Claims 52-65 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over co-pending Application No. 10/218,743. Applicants submit herewith a Terminal Disclaimer that disclaims any portion of the patent term that extends beyond the term of co-pending Application No. 10/218,743, if such application issues as a patent.

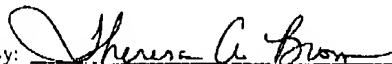
CONCLUSION

In view of the foregoing, Applicants solicit an allowance of all pending claims as amended herein. If any questions remain regarding this Application, the Examiner is invited to contact the undersigned at (970) 493-7272 ext. 4154.

Respectfully submitted,

Dated: November 10, 2004

By:



Theresa A. Brown, Esq.
Registration No. 32,547
Heska Corporation
1613 Prospect Parkway
Fort Collins, Colorado 80525
Telephone: (970) 493-7272
Facsimile: (970) 491-9976